

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

TONY KULTON,	)	CASE NO. 5:11cv451
	)	
PLAINTIFF,	)	JUDGE SARA LIOI
	)	
vs.	)	
	)	MEMORANDUM OF OPINION
	)	AND ORDER
UNITED STATES POSTAL	)	
SERVICE,	)	
	)	
DEFENDANT.	)	

Plaintiff *pro se* Tony Kulton originally filed this action against Defendant United States Postal Service in the Akron Municipal Court, Small Claims Division, and the case was removed to this Court by Defendant on March 4, 2011. Defendant filed an Amended Motion to Dismiss on March 8, 2011. (Doc. No. 5.) Plaintiff has not responded to that motion.

The Complaint alleges Plaintiff did not receive four packages which were supposed to have been delivered to his residence. One of the packages was insured. The Amended Motion to Dismiss asserts this Court lacks subject matter jurisdiction because the Federal Tort Claims Act specifically exempts claims “arising out of the loss, miscarriage, or negligent transmission of letters of postal matters,” 28 U.S.C. § 2680(b), and because Plaintiff has not filed a proper administrative indemnity claim. These

arguments are unrebutted and well taken.

Accordingly, this action is dismissed without prejudice. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

**IT IS SO ORDERED.**

Dated: April 21, 2011

  
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**HONORABLE SARA LIOI**  
**UNITED STATES DISTRICT JUDGE**